COURT NO.2

Civil Misc. Writ Petition no. 1240 (M/S) of 2002

Madan Mohan Nautiyal …….. Petitioner.

Versus

The District Judge, Pauri Garhwal & Ors. …… Respondents.

…….

Hon'ble P.C. Verma, J.

This writ petition has been filed by the petitioner challenging the order dated 02.12.2002 passed by the District Judge, Pauri Garhwal in Civil Revision No. Nil of 2002, dismissing the revision in limine, which has been filed against the order dated 25.9.2002 passed by the trial court in Original Suit No. 25 of 1992 for closure of evidence and for fixing the case for arguments.

The rent suit was filed in the year 1992 and since then the suit is lingering on one pretext or the other due to delaying tactics applied by the defendant, which is evident from the facts of the case.

The learned counsel for the petitioner argued that in view of the amended provision of Civil Procedure Code which came into force on Ist July, 2002, the defence could be closed after three adjournments. After the enforcement of this provision the defendant did not seek fourth adjournment. Therefore, the order sought to be quashed is liable to be quashed. From the dates given by the petitioner, it is clear that prior to the amendment various adjournments were sought by the defendant and on account of which the trial of the suit has delayed and the Presiding Officer could not conclude the trial.

I have perused the order passed by the Presiding Officer. He has given cogent reasons for closure of the evidence and fixing the matter for final hearing. Therefore, I am not inclined to set aside the order passed by the court below.

The petition is dismissed in limine.

(P.C. Verma, J.)

17.12.2002
P. Singh